

COMMISSION ON JUDICIAL PERFORMANCE  
455 Golden Gate Avenue, Suite 14400  
San Francisco, CA 94102

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Contact: Victoria B. Henley  
Director-Chief Counsel  
(415) 557-1200

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FOR RELEASE  
July 11, 2012

JUDICIAL PERFORMANCE COMMISSION ISSUES  
PUBLIC ADMONISHMENT OF JUDGE MORRIS D. JACOBSON

The Commission on Judicial Performance has publicly admonished Judge Morris D. Jacobson of the Alameda County Superior Court.

The commission determined that Judge Jacobson should be publicly admonished for misconduct relating to the judge's abuse of the contempt power and abuse of authority. On October 13, 2010, the judge was presiding over the criminal case of *People v. Barrientos*, which was on calendar for a motion to continue the preliminary hearing scheduled for the following day. After indicating that he could not rule on the motion since not all of the defendants were present and that he would take up the continuance motion the following morning, the judge then ordered attorney Anne Beles, who had made the motion, to "spend every waking moment" working on the *Barrientos* case, to "work all day today, work all night" and "get up early tomorrow morning." Ms. Beles responded by stating: "Your Honor, I don't need your advice on how to be competent." Judge Jacobson stated, "That is contemptuous," and told Ms. Beles to take a seat.

After a brief recess, during which the judge went to chambers to review a checklist to be followed in adjudicating a contempt, the judge returned to the courtroom and began calling cases. At one point, attorney Beles walked across the courtroom to retrieve a portion of the *Barrientos* case to review and the judge told her to take a seat and remain in the courtroom as she was told. Ms. Beles complied. At approximately 11:05 a.m., the judge recalled the *Barrientos* case and told Ms. Beles to return at 2:00 p.m. for a hearing. Ms. Beles apologized for her earlier remark. When the judge recalled the *Barrientos* case at 2:35 p.m., Ms. Beles again apologized for her remark. The judge did not find Ms. Beles to have been in contempt.

The commission determined that Judge Jacobson's actions constituted abuse of the contempt power and abuse of authority. Whether or not her remark was contemptuous, it was improper for the judge to have ordered her to remain in the courtroom for more than an hour and a half without adjudicating the alleged contempt. The judge's actions were tantamount to punishing her for contempt without a hearing. It is misconduct for the judge to impose punishment for contempt without first adjudicating the contempt and sentencing the contemnor.

The commission further found that the judge's orders to Ms. Beles to "spend every waking moment" working on the *Barrientos* case, to the exclusion of other cases and social activity, was an abuse of authority. The commission noted that the statutes discouraging continuances in criminal cases require a judge to deny a motion for continuance for good cause; they do not permit a judge to direct an attorney on how to prepare his or her case. The

commission rejected the judge's claim that the commission's decision would chill judges from probing into the grounds for a continuance, noting a clear distinction between asking questions to determine why an attorney is not prepared and ordering an attorney to spend every waking moment working on a case. The commission also found that the judge's remarks were demeaning and discourteous because they appear to call into question Ms. Beles's work ethic and suggest that she had not adequately prepared her case; they are also the type of remark that could be expected to damage the attorney-client relationship.

Judge Jacobson's prior discipline for similar misconduct was a significant factor in the commission's determination to issue a public admonishment. In 2010, the judge received a strong advisory letter for abuse of authority and poor demeanor. The judge ordered an attorney to appear in his court when no matter requiring the attorney's presence was pending and ordered the attorney to remain in the courtroom for an un-calendared hearing. In the commission's view, the judge's repeat of similar misconduct reflects a lack of appreciation for the bounds of his authority and his duty to treat those who appear before him with courtesy, dignity and respect.

The public admonishment is available on the commission's website at [www.cjp.ca.gov](http://www.cjp.ca.gov) (under "Press Releases" and "Public Discipline – 1960 to Present") and from the commission's office.

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The commission is composed of three judges, two lawyers, and six public members. The Chairperson is Mr. Lawrence J. Simi of San Francisco, California.

For further information about the Commission on Judicial Performance, see the commission's website.